Remark:

First of all, the applicant sincerely thanks the careful work and the effort of the examiner for helping to review the non-statutory double patent possibility. This effort will surely helps the applicant to eliminate potential future challenges in this area of concern. This extra effort of the examiner is sincerely appreciated. Thank you very much.

Claim 129-134 and 176 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 21-23 of U.S. Patent No. 5,867,818. Accordingly independent claims 129 and 176 are amended to emphasize the "system" characteristics of the subject claims for overcoming the ground of rejection. Listed below are the additional information for the reference of the examiner:

(A) Different fields of application:

In the whole specification, U.S. Patent 5,867,818 (here after abbreviated as the 818 patent) recites a design of a single microcontroller IC, and claims 21-23 recited method to program a microcontroller IC. Claim 129 is directed to an advanced dual processors system, which has different applications due to the substantially stronger processing power of dual core processing. The examiner is respectfully directed to note that multiple cores processor had not yet been introduced to the market when the subject application was filed. Claim 129 is now amended to be specific to a multiple processors system and it's role with table format programming. Claim 129 carries inherited new technical requirements requiring new instruction set designs for table format data exchange between the two processors as indicated in dependent claims 133-134, that are obtained from a design process similar to generating the improvement designs of the other embodiments and other claims recited in the subject application. The substantial technical improvement of the 818 patent to enable a multiple cores or multiple processors system is strong evidence that the dual core system claimed is unobvious. The field of application of claim 176 is directed to a dual computers system located in two different places, which is of further distance away from the claimed dual processors or dual core system of claim 129. Obviously the field and environment of application of the system of claim 176 is substantially different from the due processors or dual core system of claim 129, and further apart from the single processor IC of the 818 patent. In addition, the examiner is respected directed to note that the improvement

techniques of the other embodiments and claims in this application are required to enrich further advance communication link protocol instructions and designs (with both hardware and software) for the claim 129 design to fit into the dual computers system of claim 176. The above evidence of different field of application and different technical requirement of system instructions are evidences that the ground of a "obviousness" type of double patenting rejection is NOT justified.

(B) Different nature of claims:

The examiner is respectfully requested to note that claims 21-23 of the 818 patent are directed to method or process claims while claims 129-134 and 176 are directed to product claims. To justify the "obviousness" nature of the rejection, the relationship between a method or process nature of the reference patent and the product nature of the subject claims are required to be evaluated by the appropriate patent rule considerations. Listed below is a quotation of MPEP 806.05(e) which outlines the position of the law between method/process claim of reference patent and the product claim of an application:

> **MPEP 806.05(e)Process and Apparatus for Its Practice [R-5]**
>
> *Process and apparatus for its practice can be shown to be distinct inventions, if either or both of the following can be shown: (A) that the process as claimedcan be practiced by another materially different apparatus or by hand; or (B) that the apparatus as claimed can be used to practice another materially different process*

Since the dual processor claim 129, dual core claim 134 and the dual computers system of claim 176 are advanced system that can be used to perform other more complicated activities than the simple controller of the 818 patent, and that the subject application teaches these advance systems can be used to perform program executions of other more advanced high level languages other than the table format programming process of the 818 patent, the subject claims 129-134 and 176 are considered to be distinct from claims 21-23 of the 818 patent according to the teaching of MPEP 806.05(e). Accordingly the obviousness (non-distinct) nature of the ground of rejection is respectfully requested to be withdrawn.

(C) Domination consideration:

Even if the table format programming method enlisted in claim 21-23 of the 818 patent is broadly interpreted to encompass the inherited programming properties of subject claims 129-134 and 176, and that the control apparatus recited in claims 21-23 of the 818 patent are interpreted to broadly encompass the dual processor system of subject claims 129-134 and the dual computer system of subject claim176, it is a matter of domination that should not be confused with the matter of obvious double patenting. Listed below is a quotation of MPEP 804 II:

> MPEP 804 II: REQUIREMENTS OF A DOUBLE PATENTING REJECTION (INCLUDING PROVISIONAL REJECTIONS)
>
> *Domination and double patenting should not be confused. They are two separate issues. One patent or application "dominates" a second patent or application when the first patent or application has a broad or generic claim which fully encompasses or reads on an invention defined in a narrower or more specific claim in another patent or application. Domination by itself, i.e., in the absence of statutory or nonstatutory double patenting grounds, cannot support a double patenting rejection. In re Kaplan, 789 F.2d 1574, 1577-78, 229 USPQ 678, 681 (Fed. Cir. 1986); and In re Sarrett, 327 F.2d 1005, 1014-15, 140 USPQ 474, 482 (CCPA 1964).*

The examiner is respectfully to reconsider if the dual processor characteristics and the dual computer systems limitations and their inherited advance programming requirements as taught by the content of the subject applications are obvious from the simple single microcontroller product of the 818 patent, when the issue and weight of domination indicated by MPEP 804 II is carefully considered.

(D) Consideration of unjustified improper timewise extension of the right to exclude granted to the 818 patent:

The ground of rejection is based on unproven consideration of unjustified improper timewise extension of the right to exclude granted to the 818 patent. The examiner is directed to note that claims 129-134 and 176 are limited to multiple processor/ multiple cores microprocessor system and multiple computers system and the technical improvement of the table format programming applied to these advanced systems. Anyone using table format technology in the simple single processor system as taught in the 818 patent, and outside the boundary of the subject claims is not affected by the right to exclude of the subject application. The examiner is further respectfully requested to review the web site "www.easyformat.com" which outline licensees of the 818 patent.

The applicant respectfully submits that the 818 patent had helped an American company to successfully drawn royalty income from Taiwan microprocessor design houses. All licensees licensed the 818 patent are using the technology of the 818 patent in the environment of simple single microprocessor. So far no licensee is using the technology for multiple processors or multiple cores environment. Recently the applicant had notified the licensees currently paying royalty for the 818 patent and remind them royalty payment will no longer be required when the 818 patent expires. This is a "very strong evidence" that the subject application does NOT create unjustified improper timewise extension to the licensees of the 818 patent.

(E) Explanation of rejection of dependent claims 130-134:

The office action did not give explanation "how the additional limitations of the dependent claims 130-134 are considered to be of nonstatutory obviousness-type double patenting due to claims 21-23 of the 818 patent"? For example, claim 132 directs to dual cores or quad cores microprocessors which was not known to the market when the subject application was filed. Listed below is a recitation of MEPE 707.07 and 37 C.F.R. 1.104(b):

> **37 C.F.R. 1.104(b) :**
> *"Completeness of examiner's action....The examiner's action will be complete as to ALL matters.....".*

If the ground of rejection of the subject rejected claims are to be withheld, the next office action is respectfully requested not to be set final according to the requirement of 37 C.F.R. 1.104(b).

In view of the above reasons and evidences submitted, the examiner is respectfully to reconsider withdrawing the ground of nonstatutory obviousness-type double patenting of the pending claims 129-134 and 176.

[End of Remark]